

<p>1 D. Naseman 2 A. Without the -- 3 Q. Without the squiggle. 4 A. The squiggle and the repeat of Page 1, 5 yes. 6 Q. And then under set -- and 7 says, "If 7 deal blows, she hasn't gotten higher ground," and 8 you say -- and underneath it it's A and B. 9 A. And C. 10 Q. So would you agree that when you -- A, 11 B, and C relate to what would happen if the deal 12 blows. 13 A. I think I've answered the question. I 14 believe my answer is, as you apparently don't want 15 to take my explanation for it, and you'll decide 16 how you want to view it. 17 Q. That's not acceptable. I've asked you 18 a different question. 19 Are A and B and C descriptions of what 20 you believe might happen if the deal blows? 21 A. No. 22 Q. No? 23 A. A is not. 24 Q. And the fact that it's a sub -- it's 25 in an outline and under the -- under a broader</p>	<p>Page 117</p> <p>1 D. Naseman 2 for 80 percent of the assets I produced, since I 3 put in 82 percent of the income," that was your 4 assessment of what you would argue if the deal 5 blew, right? 6 A. That is correct, up to that point. 7 Q. You weren't saying -- so when you said 8 "I will argue for 80 percent of the assets," and 9 I'm going to leave the rest of that out, "And 10 Toehl can keep hers without any claim of mine," 11 weren't you saying there that if you -- if the 12 deal blows, the position you would take is that 13 you'd keep 80 percent, and she can keep assets in 14 her name without any claim of mine? 15 A. No. 16 Q. No. And you remember that here today, 17 that that's what -- that's not what you meant? 18 MR. ROTTENSTREICH: Objection to the 19 form of the question. 20 A. Let me see if I can explain it this 21 way. 22 Q. That's not my question, sir? 23 A. I'm trying to explain to you -- 24 Q. Excuse me. You'll answer my 25 questions, not what you want to say.</p>
<p>1 D. Naseman 2 category of 7 -- let me redo it. 3 B, certainly, I will argue for 80 4 percent of the assets, is what you would do if the 5 deal blows, correct? 6 A. Certainly the first part of that is 7 accurate. The last part of that, "And TH can keep 8 her without any claim of mine," certainly wouldn't 9 be the case if we were in an extended proceeding. 10 That's why I'm saying these paragraphs 11 are not precise, okay, as you're trying to read 12 them. These are factors to consider. 13 Q. But A is when you said, "She used 14 divorce as leverage to extract 60 percent of my 15 assets." Certainly within your assets were the 16 investment account, correct? 17 A. As I have previously said, no. That's 18 not what was meant there. 19 Q. I'm not asking what was meant. Your 20 assets at that time, regardless of what was in 21 this clause, your assets included the investment 22 account, correct? 23 A. If you're talking about an abstract 24 outside of this document, yes, that is true. 25 Q. When you say -- and 7 B, "I will argue</p>	<p>Page 118</p> <p>1 D. Naseman 2 A. If you don't want to hear the answer, 3 I'm sorry. 4 Q. Were you -- is the answer yes or no? 5 When you said, "I will argue for 80 percent of 6 assets I produced, since I put in 82 percent of 7 income, and Toehl Harding can keep hers with -- TH 8 can keep hers without any claim of money," isn't 9 it a fact that you were describing the position 10 you would take if there were litigation because 11 the deal blew? Yes or no. 12 MR. ROTTENSTREICH: Objection to the 13 form of the question. 14 A. Based on my understanding of your 15 question, the answer is no. 16 Q. You have a recollection today that 17 that's -- your interpretation of this paragraph is 18 what you believed at the time you wrote it? 19 A. Yes. 20 Q. Where did you write this document? 21 A. This document was written in Incline 22 Village, Nevada. 23 Q. And there -- so 7 B, at least the 24 first sentence, had to do with what would happen 25 if the deal blows, right? I think we're in</p>

<p>1 D. Naseman 2 agreement on that. 3 MR. ROTTENSTREICH: Objection to the 4 form of the question. 5 A. It certainly relates to if the deal 6 blows. 7 Q. But no part of A -- your testimony has 8 to do with what argument Toehl Harding would make 9 in the event that the deal blew? 10 MR. ROTTENSTREICH: Objection to the 11 form of the question. 12 A. No, because she wouldn't be using any 13 leverage at that point. Doesn't apply. 14 Q. So since you recall writing this and 15 what you meant at the time, why is it that you put 16 A underneath a section that starts with the word 17 if deal blows? 18 A. As I sit here today -- as I said, I 19 was writing down thoughts for my counsel and 20 various factors, and this was where this one fell 21 as I was going through the process. 22 Q. So pure coincidence that it happened 23 to be under Section 7? 24 MR. ROTTENSTREICH: Objection to the 25 form of the question.</p>	<p>Page 121</p> <p>1 D. Naseman 2 Q. These were things, 1 through 5, that 3 you wanted to hide from Toehl Harding by settling 4 the case; isn't that right? 5 A. It -- the word hide is obviously an 6 inappropriate choice of words here. What this was 7 conveying was is that there were certain existing 8 circumstances and certain things planned in the 9 future that if you have an ongoing and long 10 contested proceeding, those things would 11 inevitably bubble up during that proceeding. 12 Q. These were things that were going to 13 happen or had happened? 14 A. Well, some were going to happen, some 15 had already happened, but you'll notice that the 16 word is to hide a futuristic concept, not 17 something that has been hidden, if you will. 18 Okay? 19 Q. Could you explain to me -- at the time 20 you wrote this, the first one says "Marcia 21 relationship." 22 A. Correct. 23 Q. Did Toehl Harding know about the 24 Marcia relationship at the time you wrote this 25 document?</p> <p>Page 123</p>
<p>1 D. Naseman 2 Q. Go to Page 2, T 814. Is that your 3 handwriting on the page? 4 A. Yes. I'm not sure what the squiggle 5 is at the top. That's unidentifiable, but maybe 6 just -- 7 Q. Let's go to TH 817. 8 A. Right. 9 Q. And it says -- you see the line 10 towards the bottom on the left said, "Things to 11 hide"? 12 A. That certainly appears that the last 13 word -- 14 Q. What do you mean when you wrote things 15 to hide? 16 A. I'm asking my -- can I ask him a 17 question? 18 Q. Not during this, while the question is 19 pending. 20 A. Read the question again, please. 21 (Question read.) 22 A. This was a response of issues that 23 could come out in a later contested proceeding if 24 we did not accept the offer that Mr. Cohen had 25 made on the 15th of April.</p>	<p>Page 122</p> <p>1 D. Naseman 2 A. It was my hope that she did not, okay. 3 Let me finish. However, at a -- at a particular 4 point in time, probably in November, that 5 relationship became more public. 6 Toehl had many friends in the 7 Berkshires. It's not inconceivable that word 8 would have gotten back to her, although I had 9 hoped that it had not. 10 Q. When did your relationship with Marcia 11 begin? 12 A. That would have been, I believe, 13 sometime in July. 14 Q. Was that something you tried to hide 15 from Toehl Harding? 16 A. Well, it certainly wasn't something 17 that I was shouting from the rooftops. 18 Q. I mean, forget about shouting from the 19 rooftops. 20 Did you ever say to her, Toehl, I 21 can't be around because I got to go and meet my 22 girlfriend? 23 A. No, I certainly did not tell her that. 24 Q. Certainly you tried -- and I take it 25 there were times when you were with your</p> <p>Page 124</p>

<p style="text-align: right;">Page 125</p> <p>1 D. Naseman 2 girlfriend that you told Toehl Harding you had 3 been someplace else. 4 MR. ROTTENSTREICH: Objection to the 5 form. 6 A. I can't recall offhand the particular 7 instance of that occurring, because Toehl was not 8 in the Berkshires on an ongoing basis. 9 Let's put it this way. On a daily 10 basis, she might have been up during weekends, but 11 there may not have been any reason for her to make 12 that statement to her because she's not there. 13 Q. Is your testimony here you didn't try 14 to hide your relationship from Marcia from your 15 wife? 16 MR. ROTTENSTREICH: Objection to the 17 form of the question. 18 A. No. I -- let me say that I certainly 19 did not want to hurt Toehl with her finding out 20 other than through me that a relationship existed. 21 Q. Yes or no. 22 Prior to November, prior to the time 23 that you wrote this document, Exhibit 5, yes or 24 no, did you try to hide your relationship with 25 Marcia from your wife, Toehl Harding? Yes or no.</p>	<p style="text-align: right;">Page 127</p> <p>1 D. Naseman 2 Q. You would agree that the fact that you 3 sought to hide the relationship wouldn't change -- 4 be changed by the fact that she found out. It 5 would only mean that you had been unsuccessful in 6 hiding it. 7 MR. ROTTENSTREICH: Objection. 8 A. I don't equate those two. I'm sorry. 9 Q. You don't? 10 A. No. 11 Q. So is it your view that if there's a 12 possibility that something -- another person -- 13 you don't want another person to know, if there's 14 a possibility that they could find out, then 15 you're not hiding anything? Is that what you're 16 testifying to? 17 MR. ROTTENSTREICH: Objection to the 18 form of the question. 19 A. Maybe it's late, but you have lost me. 20 Q. I'm trying. I think what you 21 testified to was that you didn't seek to hide the 22 relationship with Marcia from Toehl because there 23 was a possibility that Toehl might find out about 24 the relationship from third parties. 25 A. Well, there's -- there is no need</p>
<p style="text-align: right;">Page 126</p> <p>1 D. Naseman 2 MR. ROTTENSTREICH: Objection to the 3 form of the question. 4 A. In a -- in a broad sense the answer is 5 yes. 6 Q. How about in a narrow sense? 7 A. You'll have to give me what the narrow 8 one is. 9 Q. You testified just now that in a broad 10 sense the answer is yes, so I'm asking in what 11 narrow sense the answer would be no. 12 A. Well, in the broadest sense, as I said 13 before, I didn't want her to hear it other than 14 from me, if it arose, but at the same time, she 15 was not in the Berkshires, and Marcia and I were 16 out and about, and she may, okay, so that there 17 was no assurance that, you know, even if best 18 efforts of hiding it or not disclosing it would be 19 successful. I mean -- 20 Q. You understood the difference between 21 you seeking to hide something and Toehl Harding 22 finding out regardless of your effort to hide it? 23 MR. ROTTENSTREICH: Objection to the 24 form of the question. 25 A. That one I'm not --</p>	<p style="text-align: right;">Page 128</p> <p>1 D. Naseman 2 particularly to hide the relationship when Toehl 3 is not around, all right? I mean -- so in -- 4 that's the majority of the time we're talking 5 about. 6 Q. How about the times when she was 7 around? Did you tell her? 8 A. No, certainly did not. 9 Q. How about No. 2, Marcia debt, 80 10 percent. What does that relate to? 11 A. That relates to, I believe, three 12 loans that were made to Marcia in connection with 13 her business. 14 Q. Were those loans made prior to you 15 writing your notes in Exhibit 5? 16 A. Yes. 17 Q. Did you seek to hide the fact of those 18 loans from Toehl Harding? 19 A. Again, we will get into the same 20 metaphysical, but this was in my view -- although 21 it had personal aspects to it, it was just another 22 investment like I would be making in the 23 investment account, but -- and no, I didn't go up 24 to Toehl with a piece of paper and say see the 25 loan I made for \$50,000 or \$27,000 or whatever to</p>

<p style="text-align: right;">Page 129</p> <p>1 D. Naseman 2 Marcia. 3 In fact, the only loan that was made 4 when Toehl was in fact around I believe was the 5 initial loan in August. 6 Q. When you say she was around, you mean 7 the only time that Toehl was in the Berkshires 8 when you actually gave Marcia the money? Is that 9 what you mean? 10 A. Well, I don't believe that Toehl was 11 present when I gave her the money, but it's the 12 time frame in which the loan was made, so the 13 later -- the other loans, anything over \$50,000 14 was made when Toehl was not in any kind of regular 15 -- I mean, it's after a separation. 16 Q. You were still married? 17 A. Certainly still married. 18 Q. Why is it that you put that under the 19 heading things to hide if you weren't hiding it? 20 MR. ROTTENSTREICH: Objection to the 21 form of the question. 22 A. Keep in mind, again, it was very 23 imprecise and in retrospect an unfortunate term to 24 use, but this was essentially -- I was being asked 25 to say, okay, if you didn't take the deal, and you</p>	<p style="text-align: right;">Page 131</p> <p>1 D. Naseman 2 revelation of certain of these issues. 3 Q. Were there circumstances under which 4 you planned to hide these five items? 5 MR. ROTTENSTREICH: Objection to the 6 form of the question. 7 A. No. 8 Q. What would the surgery cost? 9 A. Those were the costs related to the 10 reversal of a tubal ligation that occurred -- that 11 Marcia had shortly after she had had her first son 12 or, you know, somewhere in that time frame. 13 Q. When did the reversal take place? 14 A. That -- my recollection is -- I forget 15 the name of the procedure, but I think that was 16 like January 27, 1993, somewhere around there. 17 Q. So by that time were you separated 18 from Toehl? 19 A. Yes. 20 Q. Where did the money for the surgery 21 cost come? 22 A. The only reason I -- I find that a 23 little strange is because there's been dueling 24 statements about where the costs were satisfied. 25 It is my position.</p>
<p style="text-align: right;">Page 130</p> <p>1 D. Naseman 2 went to a contested issue, what are the things 3 that could come up that you know might cause you 4 some concern, and these were things that I off the 5 top of my head came up with to respond to that my 6 counsel's question. 7 Q. Is it -- was it your intention that if 8 the deal blew, so to speak, that you would do what 9 you could so that Toehl Harding would not find out 10 about these items? 11 MR. ROTTENSTREICH: Objection to the 12 form of the question. 13 A. While it's speculative, okay, I will 14 certainly say that if -- if I had ever been served 15 in a divorce proceeding with the kinds of 16 discovery requests you have made here, which are 17 not unusual, given the fact that I just went 18 through one, I think some of these -- some of 19 these things would certainly have come up and been 20 disclosed, so I don't think -- my perspective at 21 that point was these things aren't going to be 22 hidden, okay, if there's a contested divorce 23 proceeding. 24 They are going to come up, people are 25 going to get hurt, and you know, with the</p>	<p style="text-align: right;">Page 132</p> <p>1 D. Naseman 2 Q. I'm not interested in whose position 3 it is. I want to know where the money came from, 4 not what your position is. 5 MR. ROTTENSTREICH: Objection. He 6 should be allowed to finish his answer, 7 because he was giving you his answer. 8 MR. BURSTEIN: It's nonresponsive. 9 MR. ROTTENSTREICH: Move to strike it. 10 MR. BURSTEIN: I'll withdraw the 11 question. 12 MR. ROTTENSTREICH: Let him answer 13 when he's answering. 14 MR. BURSTEIN: I'll withdraw the 15 question. 16 Q. I'm not interested in what your 17 position is. I'm asking where the money for the 18 surgery costs came from. 19 A. Would you object if I said it was my 20 understanding that the surgery costs were 21 satisfied from my assets in terms of whether it 22 was income or other assets that existed at the 23 time those costs were in fact satisfied? 24 Q. Did the costs -- were the costs paid 25 out of your investment account?</p>

<p style="text-align: right;">Page 133</p> <p>1 D. Naseman 2 A. I couldn't say whether that was the 3 specific source. 4 Q. Were there any other assets besides 5 the investment account which you claim -- which 6 you believed were your assets and not part of the 7 marital pot? 8 MR. ROTTENSTREICH: Objection to the 9 form of the question. 10 A. Sure. Well, I mean, if you're trying 11 to include the 12,000 within, quote, the marital 12 pot, I'm not going to argue with that because it's 13 a metaphysical distinction. 14 I had money that was in the Lee bank 15 account. I considered that mine, just as Toehl 16 would consider money that was in her Bankers Trust 17 account to be hers, so -- but if you want to say 18 everything was the marital pot, yes. 19 If you accept the -- my understanding 20 that the \$12,000 was satisfied from cash that came 21 out of a check or some form of payment from me, 22 that is accurate. 23 The real question and caveat to that 24 is the timing which that payment was made, and 25 that may have been after the divorce was final. I</p>	<p style="text-align: right;">Page 135</p> <p>1 D. Naseman 2 refer to? 3 A. That refers to categories of payments 4 either made or to be made to relatives over 5 whatever period of time that contested proceeding 6 involved. 7 For instance, I gave one cousin a 8 couple of thousand dollars so that he could attend 9 the Olympics in 1992 to watch his wife dive for 10 the US team. I think I gave my brother some 11 funds. 12 I was planning an extension on the 13 Michigan property that was going to cost a 14 significant amount of money, so I was sort of 15 ballpocketing and guesstimating what might be 16 involved in that category. 17 Q. Why was that -- those payments listed 18 under things to hide? 19 A. As I said previously, the word hide is 20 not the correct word there. It was things that 21 would essentially come up during a proceeding that 22 might be objected to. That's all. 23 Q. Do you remember testifying in your 24 divorce case in a deposition in January of 2006? 25 A. Yes.</p>
<p style="text-align: right;">Page 134</p> <p>1 D. Naseman 2 just don't know the answer to that, but given the 3 delays in billing and payments, that certainly 4 could have happened. 5 Q. Where did the money for the loans to 6 Marcia come from? 7 A. The second loan, which was in December 8 16 or 15, somewhere around there, for 27,000, that 9 came from the Lee bank account, after a deposit, 10 as I recall, of \$50,000 from the -- my Republic 11 account, and off the top of my head, I can't 12 recall exactly where the 50,000 came from, but 13 that certainly could have been from the investment 14 account. 15 Q. How about -- 16 A. In August. 17 Q. How about the diamond ring? When did 18 you buy the diamond ring for Marcia? 19 A. The time frame for the purchase of 20 that was either April 23 or sometime in the 21 beginning of May. I just can't figure out -- 22 Q. Which year? 23 A. Oh, 1993. 24 Q. And then below we have something that 25 says two relations, 50,000/5,000. What does that</p>	<p style="text-align: right;">Page 136</p> <p>1 D. Naseman 2 Q. I'm going to read you a question and 3 answer from that at 104. 4 "Again, under things to hide, money to 5 relatives, it says \$50,000 to something. 6 "Answer: Yeah, I don't know what that 7 reference is to." 8 What has happened between January 17, 9 2006, to May -- what are we 12, 2008, to refresh 10 your recollection as to what that money was for? 11 A. Two years -- well, not two years, but 12 two years have elapsed. The complaint has been 13 filed against me. I reviewed a great many more 14 things that I hadn't looked at in years, and that 15 I certainly had not looked at prior to the fact 16 that this single page was put in front of me in a 17 deposition without any explanation as to what 18 exactly it was. 19 Q. What documents have you looked at that 20 have helped refresh your recollection? 21 A. I looked at the documents relating to 22 the Michigan property. 23 Q. Did you produce them to your attorney? 24 A. Yeah. The deeds and those kind of 25 things?</p>

<p style="text-align: right;">Page 137</p> <p>1 D. Naseman</p> <p>2 Q. What in the deeds helped you refresh</p> <p>3 your recollection about -- for example, how about</p> <p>4 the money for the Olympics?</p> <p>5 What has helped you refresh your</p> <p>6 recollection about paying for somebody to go to</p> <p>7 the Olympics?</p> <p>8 A. Look at one of the -- the Shearson --</p> <p>9 whatever the name, Shearson Prudential, whatever</p> <p>10 account you want to call it that was produced.</p> <p>11 In the back there are expenditures</p> <p>12 from that account that are listed, and I believe</p> <p>13 you'll see one to an Oldenhaus. I think you'll</p> <p>14 also see in there there is -- that is responsive</p> <p>15 to the Olympics. I think there was a graduation</p> <p>16 gift to a Kirkola, which was another second cousin</p> <p>17 of mine, so, you know, these are things that, you</p> <p>18 know, have -- could be the subject of a dispute.</p> <p>19 Q. Why is it that you had that under</p> <p>20 things to hide?</p> <p>21 A. As I said, the word hide is not an</p> <p>22 appropriate term which would come up during a</p> <p>23 protracted proceeding.</p> <p>24 Q. Would you consider yourself a person</p> <p>25 who is careful with language?</p>	<p style="text-align: right;">Page 139</p> <p>1 D. Naseman</p> <p>2 of 2006 or in that time frame.</p> <p>3 Q. Did you -- let's talk about 818 to</p> <p>4 823. Was this a document that was left in your</p> <p>5 house and found by Marcia?</p> <p>6 A. I don't think found is the correct</p> <p>7 term. This was a document that was locked in my</p> <p>8 footlocker, which was jimmied open, and this</p> <p>9 document was taken from there for whatever. I</p> <p>10 mean --</p> <p>11 Q. You said this was prepared, and I'm</p> <p>12 only talking about 818 through 823. Which lawyer</p> <p>13 was this prepared for?</p> <p>14 A. This was prepared for Leonard</p> <p>15 Florescue.</p> <p>16 Q. Do you recall when it was done?</p> <p>17 A. It would have been after February 24,</p> <p>18 okay? And let me just say that I don't presently</p> <p>19 recall when the handwritten changes were made to</p> <p>20 what was typewritten on here, and the circle</p> <p>21 around stocks is not of my doing, but it was in</p> <p>22 the, I'd say, latter part of February, beginning</p> <p>23 of March period.</p> <p>24 Q. Was this prepared on a computer or a</p> <p>25 typewriter?</p>
<p style="text-align: right;">Page 138</p> <p>1 D. Naseman</p> <p>2 MR. ROTTENSTREICH: Objection to the</p> <p>3 form of the question.</p> <p>4 A. If I am doing it for publication, yes.</p> <p>5 If I am making notes to myself, and I know what</p> <p>6 I'm talking about, I don't necessarily sit there</p> <p>7 and actually fuss over it, and particularly since</p> <p>8 this was being done in such a time crunch, okay,</p> <p>9 given the fact that we had to respond to this</p> <p>10 offer by the -- I believe it was the 18th, and I</p> <p>11 had to get ahold of Len to discuss these terms.</p> <p>12 MR. BURSTEIN: Why don't we take a</p> <p>13 break?</p> <p>14 (Recess taken.)</p> <p>15 (Plaintiff's Exhibit 6, History,</p> <p>16 marked for identification.)</p> <p>17 Q. Have you seen this document before?</p> <p>18 A. Let me say two things. I've seen</p> <p>19 these two documents before. There's a document</p> <p>20 that is a cover page and -- well, let's use the</p> <p>21 Bates stamps.</p> <p>22 TH 818 to 823 is a document that I</p> <p>23 sent to my counsel at his request. TH 824 labeled</p> <p>24 supplemental information is not a part of that</p> <p>25 document, and I first saw in -- I want to say July</p>	<p style="text-align: right;">Page 140</p> <p>1 D. Naseman</p> <p>2 A. This was on a typewriter. I didn't</p> <p>3 have a computer in Nevada.</p> <p>4 Q. Do you still have that typewriter?</p> <p>5 A. No. It's long gone. 15 years ago.</p> <p>6 Q. When you say it was long gone, when</p> <p>7 did you get rid of it?</p> <p>8 A. Probably it broke down. It might have</p> <p>9 been eight years, ten years ago.</p> <p>10 Q. Before your marriage with Marcia ran</p> <p>11 into difficulty, would that be fair to say?</p> <p>12 A. Yes.</p> <p>13 Q. Let's go to 824, and I understand that</p> <p>14 you have -- you claim that you did not prepare</p> <p>15 this. So who do you believe prepared this?</p> <p>16 A. I am not going to speculate on who I</p> <p>17 believe prepared it. There's some interesting</p> <p>18 things in here, but I'm not going to speculate.</p> <p>19 That's up to somebody else to determine.</p> <p>20 Q. Do you believe this document was in</p> <p>21 your footlocker with T 818 through 823?</p> <p>22 A. Certainly not to my knowledge.</p> <p>23 Q. But you would agree that this is a</p> <p>24 document that was initially produced by Marcia in</p> <p>25 your divorce?</p>

Page 141

Page 143

1 D. Naseman
 2 A. Yes. That's where I first saw it.
 3 Q. And I want to go back to the time that
 4 your -- eight years ago when you lost your or you
 5 threw your typewriter away; would that be fair to
 6 say?
 7 A. Without holding me to the time frame,
 8 yeah, I'm sure it was disposed of somewhere.
 9 Q. I'd like to ask you sitting here
 10 today, can you think of anyone who eight years ago
 11 or approximately eight years ago would have had a
 12 motive to add the sheets, create the sheets
 13 supplement information?
 14 A. I'm not -- I don't think I've
 15 indicated anything relating to how this first --
 16 how this -- the time when this was prepared or
 17 that it was prepared on a particular typewriter.
 18 Q. You said it was prepared on a
 19 typewriter.
 20 A. I said my document was prepared on a
 21 typewriter.
 22 Q. I understand that. I want to ask you
 23 -- and I'll tell you why I'm asking you. I
 24 believe that expert opinion will establish this
 25 document, TH 824, was created on the same

Page 142

Page 144

1 D. Naseman
 2 typewriter as TH 818 through 823, so my question
 3 is: First of all, who had access to your
 4 typewriter in the years between your divorce and
 5 when you threw your typewriter away?
 6 A. Well, certainly Marcia would have. I
 7 would have. Who else was around? I'm trying to
 8 think of where it was. It was in the Lenox --
 9 there were some people that stayed in the Lenox
 10 house when we were living during the winters in
 11 Scottsdale, so they could have had access to it.
 12 Q. Who were these people?
 13 A. They were some friends of Marcia's.
 14 I'm trying to think of their last name. There was
 15 a couple -- I can't think of the last name
 16 offhand, and then there was a woman who was
 17 separated from her husband that would have been
 18 there maybe during that time frame.
 19 Q. And the typewriter was in Lenox the
 20 whole time?
 21 A. It was in Lenox for -- yeah, a portion
 22 of the time, and then it may have eventually
 23 gotten to Scottsdale, and where it was thrown out.
 24 I didn't keep track.
 25 Q. Did you ever discuss your finances

1 D. Naseman
 2 with any of the people who were living in the
 3 Lenox house?
 4 Did you ever discuss with them your
 5 finances as of the time you were getting a divorce
 6 from Toehl Harding?
 7 A. The Lenox house?
 8 Q. The Massachusetts house.
 9 A. Did I discuss the terms of my
 10 financial arrangements?
 11 Q. Yes.
 12 A. No, no.
 13 Q. Do you know if Marcia ever discussed
 14 the terms of your financial status as of the time
 15 of the divorce from Toehl Harding with those
 16 people?
 17 A. I don't know.
 18 Q. Let's go through this. This is T 824.
 19 I'm going to read you the first Paragraph 1
 20 entitled, "Credit Cards and Retail Accounts."
 21 TH, Toehl Harding, and DN, that's you,
 22 right?
 23 A. That's correct.
 24 Q. "Maintained separate credit cards and
 25 retail accounts and each was responsible for his

<p style="text-align: right;">Page 145</p> <p>1 D. Naseman 2 A. Well, certainly Marcia did. I mean -- 3 Q. Other than Marcia? 4 A. Well, I don't know. I mean, there's 5 other -- you're asking me a range of people who 6 could have had knowledge of this, and I'm saying 7 that if it was reflected in the correspondence, 8 anybody reading that could. 9 Q. Who to your knowledge with access to 10 your typewriter would have had knowledge of the 11 information in Paragraph 1? 12 A. Based on what I would say, what I have 13 said, it would probably be limited to me and 14 Marcia, if we're talking about just the 15 typewriter. 16 Q. Yes. No. 2, entitled, "TH Toehl 17 Harding," right? 18 A. Correct. 19 Q. "Information. DMN has never had 20 access to and does not presently know any of TH's 21 bank accounts investment interests or her 22 corporate benefit plans, and DMN does not know any 23 of the tax balances -- any of the -- any of Toehl 24 Harding's balances in any of the foregoing." 25 Was that true as of the time you were</p>	<p style="text-align: right;">Page 147</p> <p>1 D. Naseman 2 provided at year end, I believe that Toehl 3 Harding's balances could be substantial." 4 Was that true? Did you believe that 5 as of the time you were getting divorced from 6 Toehl Harding? 7 A. Yeah, I think that's reflected in the 8 correspondence. Yeah. 9 Q. Let's go to three. 10 "For various reasons, Toehl Harding is 11 unaware of the existence of the Shearson Lehman 12 Brothers account or the income that has been 13 generated by that account over the last two years. 14 Similarly, Toehl Harding is not presently aware of 15 the extent of my income for the 1990 and 1991 tax 16 years, nor for the year 1992, just completed." 17 I take it your testimony is that that 18 statement is not true. 19 A. That statement is not true. 20 Q. And we can discuss the reasons for 21 this at your convenience. You don't -- you didn't 22 write that either? 23 A. No. 24 Q. And 4, "During the marital period, DMN 25 has earned over 80 percent of the total income</p>
<p style="text-align: right;">Page 146</p> <p>1 D. Naseman 2 getting a divorce from Toehl Harding? 3 A. Yes. 4 Q. "Based upon tax information, she has 5 provided at year end, I believe that Toehl 6 Harding's balances could be substantial." 7 Other than you, who else during the 8 time that you owned the typewriter had knowledge 9 that you never had access to Toehl Harding's bank 10 accounts, et cetera? 11 A. Probably anybody who read the 12 correspondence, including -- or Toehl, myself, and 13 the lawyers. 14 Q. I'm asking with access to the 15 typewriter. 16 A. Access to the typewriter. I would say 17 that that's at least within the parameters you're 18 talking about, it would be Marcia and myself 19 probably. 20 Q. Toehl wouldn't have had access to the 21 typewriter after February of 1992; isn't that so? 22 A. Not -- February of 1992? She 23 certainly shouldn't have, let's put it that way. 24 Q. It says No. 3 -- what about -- "Based 25 upon tax information was provided, she has</p>	<p style="text-align: right;">Page 148</p> <p>1 D. Naseman 2 generated by Toehl Harding and DMN." 3 You believe that could be accurate as 4 of the time you were getting the divorce? 5 A. Yes, yes. 6 Q. And who with access to the typewriter 7 would have known that you had earned 80 percent of 8 the total income? 9 A. Certainly myself and anybody who read 10 the correspondence. 11 Q. With access to the typewriter. 12 A. Marcia -- I'm sorry. I'm sorry. 13 Q. "This has been primarily due to LIN 14 Broadcasting stock options which were exercised or 15 otherwise cashed in in 1998 and -- 1988 and 1990." 16 Is that statement true? 17 A. Yes, that's true. 18 Q. And am I correct that the only people 19 with access to the typewriter who would have known 20 that to be so are you and Marcia? 21 A. Yes. 22 Q. Then it says -- you can read the rest 23 of that sentence, starting "TH has received NYNEX 24 stock," and I'm going to ask you first are the 25 statements starting with the sentence, "TH has</p>

<p style="text-align: right;">Page 149</p> <p>1 D. Naseman 2 received" to the end of the paragraph with the 3 word USI, are those statements true? 4 A. They certainly may be true. I'm not 5 sure that they are necessarily true. 6 Q. Let me rephrase the question. 7 Did you believe this -- did you 8 believe the information conveyed in that part of 9 Paragraph 4 to be true as of the time that you 10 were getting a divorce from Toehl Harding? 11 A. Did I believe it to be true? The 12 answer is no, because I wouldn't have seen it, but 13 secondly, I'm going to the issue that if it read 14 NYNEX securities, okay, so instead of options it 15 might have been stock, it might have been, you 16 know, whatever, that may be accurate, because I 17 would certainly expect her to be getting some kind 18 of equity interest in NYNEX, and my understanding 19 or my belief was, or still is, that Toehl had some 20 kind of equity with USI as well when she was 21 there. 22 Q. Is there anyone who had access to the 23 typewriter other than you and Marcia who had 24 knowledge that this was your belief? 25 A. Knowledge that this was my belief.</p>	<p style="text-align: right;">Page 151</p> <p>1 D. Naseman 2 Q. Who with access to your typewriter did 3 you communicate if anyone that belief? 4 A. I don't know whether I would have 5 communicated that to anybody. I might have 6 communicated it to Lenny, Len Florescu. 7 Q. With access to your typewriter? 8 A. I don't know whether that has gotten 9 into any of the correspondence or notes or 10 anything like that. 11 Q. How about -- 12 A. It's a mystery to me. 13 Q. How about going back to -- let me -- 14 No. 1, credit cards and retail accounts, the 15 information in that is accurate, right? 16 A. Yes. 17 Q. Am I correct that the only people who 18 might have had that information were you, Marcia, 19 Toehl, and perhaps lawyers? 20 A. And if it was reflected in any of the 21 documentation, anybody who was reading it. 22 Q. Who else was, to your knowledge -- was 23 reading the documentation? 24 A. Well, as I said, Marcia certainly was, 25 or has.</p>
<p style="text-align: right;">Page 150</p> <p>1 D. Naseman 2 Q. As of the time that you were getting a 3 divorce from Toehl. 4 A. Well, it -- I don't know who had 5 access to my beliefs. 6 Q. Who did you -- did you tell anyone 7 other than -- who had access to the typewriter, 8 other than Marcia, that you believed that Toehl 9 had potential income coming to her from NYNEX and 10 US Industries? 11 A. I don't know what you're asking. I'm 12 not connecting. 13 Q. At the time of the divorce, you 14 believed that Toehl Harding was going to receive 15 income in some form from NYNEX and income in some 16 form from US Industries, correct? 17 A. No, no. I would -- she -- if we're 18 going back at the time, I would have believed that 19 she was getting some kind of NYNEX equity on an 20 ongoing basis. US Industries was in the past. 21 That was over, I believe. I mean, it's reflected, 22 I think, in a tax return. 23 Q. But you believed that she had received 24 income from US Industries? 25 A. Oh, had. Yes, yes.</p>	<p style="text-align: right;">Page 152</p> <p>1 D. Naseman 2 Q. I added Marcia. 3 A. I'm sorry, and based on events that 4 have occurred at the Lenox property, anybody who 5 breaks into the house and starts rummaging through 6 things, so from -- I mean, but realistically 7 speaking on a reasonable basis, absent some 8 extraneous thing, I think that's the -- that's the 9 parameters. 10 Q. Just so we're clear, you, Marcia, 11 Toehl, the lawyers, and perhaps people who might 12 have broken into the Lenox house? 13 A. Yeah, that's the only -- 14 Q. No. 2 is also substantially -- is 15 correct, the information conveyed in No. 2? 16 A. If I was saying it -- I think that 17 that would be true. 18 Q. Am I correct the only people, to your 19 knowledge, who would have had the information 20 conveyed in No. 2 would have been you, Marcia, 21 Toehl, and perhaps somebody who might have broken 22 into the Massachusetts house and the lawyers? 23 A. Yeah, and anybody reading the 24 correspondence. 25 Q. But other than you, Marcia, Toehl, the</p>

<p style="text-align: right;">Page 153</p> <p>1 D. Naseman 2 lawyers, and perhaps these vandals, was there 3 anybody else, to your knowledge, who had access to 4 the correspondence to read it?</p> <p>5 A. No, not that I know of. At least my 6 correspondence. You know, I can't account for 7 anybody else's.</p> <p>8 Q. No. 4, would you agree that the 9 information in No. 4 is substantially true?</p> <p>10 A. 4. Oh, yeah, with the caveat I gave 11 before about set of options limiting, instead of 12 limiting options -- I shouldn't say.</p> <p>13 Subject to the caveat I made before 14 regarding equities instead of limiting it to 15 options.</p> <p>16 Q. I understand what you're saying. Let 17 me be clear.</p> <p>18 No. 4 is correct except that the 19 sentence "TH has received NYNEX stock options 20 periodically," is inaccurate to the extent you may 21 have -- it may have been equity as opposed to 22 stock options?</p> <p>23 A. Right, may have been a stock purchase 24 program or a stock grant program rather than just 25 the right to purchase.</p>	<p style="text-align: right;">Page 155</p> <p>1 D. Naseman 2 A. You're not talking about who could 3 know. Not tied to the typewriter. 4 Q. Not tied to the typewriter. 5 A. So it would have been somebody in 6 Lenny's office. 7 Q. I meant the lawyers. I meant the 8 lawyer in the lawyer's offices. 9 A. Okay, I'll go with that. 10 Q. So the only portion of TH 824 11 according to you that is untrue is No. 3, right? 12 A. Certainly, yeah. 13 Q. Do you know the brand of the 14 typewriter you had? 15 A. Offhand I think -- it's been so long. 16 Q. Was it an electric typewriter? 17 A. Yeah, one you plug in a wall and -- 18 Q. IBM? Smith Corona? 19 A. No to IBM. I have no idea. It was 20 purchased in Nevada once I got out there, because 21 I didn't bring anything with me, so I purchased 22 that and a fax machine and a few other things. 23 Q. You purchased it in Nevada? 24 A. Uh-huh. 25 Q. How big was it?</p>
<p style="text-align: right;">Page 154</p> <p>1 D. Naseman 2 Q. Who else other than you, Marcia, the 3 lawyers, Toehl Harding -- let's take out Toehl 4 Harding. You, Marcia, the lawyers, and vandals, 5 would have known all of the information in 6 paragraph -- all of the information in Paragraph 7 4?</p> <p>8 A. I'm not sure why you took out Toehl 9 Harding.</p> <p>10 Q. You can add Toehl Harding.</p> <p>11 A. I mean, certainly she would know. Who 12 would know. Offhand, I can't think of anybody at 13 the moment.</p> <p>14 Q. Am I correct that -- so 1, 2, and 4 on 15 TH 824 are accurate, but for the caveat with 16 regard to the NYNEX stock options, and the only 17 people who would have had this knowledge, to your 18 knowledge, are Toehl Harding, you, Marcia, the 19 lawyers, and possible vandals?</p> <p>20 MR. ROTTENSTREICH: Objection.</p> <p>21 A. Vandals, others who read the 22 documentation.</p> <p>23 Q. I thought you said the only others you 24 can think of were people who broke into the house 25 and rummaged around.</p>	<p style="text-align: right;">Page 156</p> <p>1 D. Naseman 2 A. It was one of those carry kind. 3 Q. You took it back and forth with you to 4 Massachusetts? 5 A. I'm not sure I would say I took it 6 back and forth. It was there. It was then in 7 Massachusetts. It was then in Scottsdale. It may 8 have gone back once or twice when we made the 9 transitions from Scottsdale to Lenox during the 10 summer and then back again, so it would have been 11 in either of those two places. 12 Q. Is your testimony that at -- there 13 were times when you had the typewriter after you 14 were separated from Toehl Harding that the 15 typewriter was left in a house where you were not 16 residing at the time? 17 A. Certainly, yes. Certainly could be. 18 Q. Let me ask you one question while he's 19 doing that. 20 I asked you a question. You said you 21 didn't want to speculate, but I'd ask you yes or 22 no. 23 Do you have a belief as to who 24 prepared -- I think it's TH 824. Do you have a 25 belief as to who prepared TH 824? Yes or no.</p>

<p style="text-align: right;">Page 157</p> <p>1 D. Naseman 2 A. I try not to. 3 Q. If you try not to, it sounds to me 4 that you might have been unsuccessful in that 5 endeavor, so -- 6 A. There could be. 7 Q. Who is it that you -- who is the 8 belief that you could have? 9 A. I'm not going to respond that. 10 Q. I think you are required to. I think 11 your lawyer will tell you that you are required to 12 respond to that. 13 A. That question? 14 MR. BURSTEIN: I think you have to 15 direct him. 16 MR. ROTTENSTREICH: Could I talk to 17 him? 18 MR. BURSTEIN: Sure. If you want to 19 take a break, go outside, don't hesitate. 20 (The witness consults with his 21 attorney.) 22 A. This is in response to your last 23 question. Given the information that's in there, 24 it could be a combination singularly or in 25 combination of Marcia and Toehl Harding.</p>	<p style="text-align: right;">Page 159</p> <p>1 D. Naseman 2 federal, that you filed in 19 -- for 1988 with Ms. 3 Harding? 4 A. Yeah, without vouching that everything 5 is in there. Yeah, it certainly looks like the -- 6 Q. The handwriting is yours on these tax 7 returns? 8 A. Yes, it is. 9 Q. And the numbers that were put in were 10 written in by you? 11 A. The ones in pen rather than typing, 12 yes. 13 MR. BURSTEIN: Make this next. I 14 guess it's 9. 15 (Plaintiff's Exhibit 9, 1989 1040, 16 marked for identification.) 17 Q. I ask you the same questions. 18 Are these true and accurate copies of 19 tax returns you filed with Toehl Harding for tax 20 year 1989? 21 A. It certainly -- they certainly appear 22 to be. 23 Q. Do you recognize the handwriting on 24 the tax returns as yours? 25 A. Yes.</p>
<p style="text-align: right;">Page 158</p> <p>1 D. Naseman 2 MR. BURSTEIN: Let's mark this as 7. 3 (Plaintiff's Exhibit 7, 1987 Tax 4 Return, marked for identification.) 5 Q. I ask you to look at 87 and ask you 6 whether this is a true and accurate copy of the 7 tax return you filed with Toehl Harding in 1987. 8 A. Tax returns plural? 9 Q. State and federal tax returns. 10 A. I have two copies of the state. 11 Q. There may be two copies. 12 A. Yeah, it -- you know, I have no reason 13 to believe -- yeah, there's two copies attached. 14 Q. Is the handwriting on these, this tax 15 return or both tax returns your handwriting? 16 A. Yes, the handwriting itself, yes. 17 Q. So the numbers that are put in there, 18 you wrote those numbers? 19 A. Yes. 20 MR. BURSTEIN: Let's mark this as 21 Exhibit 8. 22 (Plaintiff's Exhibit 8, 1988 Tax 23 Return, marked for identification.) 24 Q. And look at this document. Are these 25 true and accurate copies of tax returns, state and</p>	<p style="text-align: right;">Page 160</p> <p>1 D. Naseman 2 Q. And the handwritten numbers you put in 3 there? 4 A. That is correct. 5 MR. BURSTEIN: Let's do the federal as 6 10. 7 (Plaintiff's Exhibit 10, 1990 1040, 8 marked for identification.) 9 Q. Is this a true and accurate copy of 10 the federal tax returns you filed with Toehl 11 Harding in 19 -- for the tax year 1990? 12 A. Let's put it this way. It appears to 13 be, but this is not the tax return for 1990 I 14 produced. 15 MR. BURSTEIN: Why don't we take a 16 break and get that one, so there's no issue. 17 I'd rather do that so that we don't 18 have any question. 19 (Recess taken.) 20 (Plaintiff's Exhibit 11, 1990 1040, 21 marked for identification.) 22 Q. I'm going to ask you is Exhibit 11 a 23 true and accurate copy of the tax joint tax return 24 you filed with Toehl Harding for the tax year 25 1990? Don't worry about Exhibit 10. I'm just</p>

<p style="text-align: right;">Page 161</p> <p>1 D. Naseman 2 asking about Exhibit 11. 3 A. Exhibit 11? 4 Q. This is the one that you produced? 5 A. This is the one I produced, yes. 6 Q. That's your handwriting on the tax 7 return? 8 A. Yes, it is. 9 Q. And the numbers written in are numbers 10 written in by you? 11 A. Yes. 12 Q. This truly and accurately reflects the 13 income that you earned? 14 A. In 1990, yes. 15 Q. In 1990? 16 If we look to DN 00421, you see that 17 there is a check from you with a 1370 Avenue of 18 the Americas address for \$163,573.94? 19 A. Correct. 20 Q. Was 1370 Avenue of the Americas your 21 office at the time? 22 A. Yes, LIN Broadcasting. 23 Q. We go to the next page. There's 24 \$100,000 check drawn on a joint account from -- 25 listed at the address of 425 East 51st Street.</p>	<p style="text-align: right;">Page 163</p> <p>1 D. Naseman 2 review that would refresh your recollection as to 3 why you broke it up into two checks? 4 A. No. 5 Q. Did the -- 6 A. Not that I can recall right now. If 7 you give me something, I'm more than happy to. 8 Q. Did the check that was written on the 9 1370 Avenue of the Americas account, where did the 10 statements for that account -- where were they 11 sent to? 12 A. Probably sent to my office, right. 13 MR. BURSTEIN: Let's mark this 12. 14 (Plaintiff's Exhibit 12, 1990 1040, 15 marked for identification.) 16 Q. Have you seen this document before, 17 Exhibit 12? 18 A. Yes, I have. 19 Q. When was the first time you saw this 20 document? 21 A. I believe it was November 3 of 2005. 22 Q. That was in connection with your 23 divorce with Marcia? 24 A. Correct. 25 Q. And do you recognize any of your</p>
<p style="text-align: right;">Page 162</p> <p>1 D. Naseman 2 Is that -- was that your home address 3 at the time? 4 A. Yes, it was. 5 Q. That check is \$100,000 from the joint 6 account, right? 7 A. Correct. 8 Q. Is there a reason why you broke up the 9 checks so that \$100,000 went to the joint account 10 and 160,573.74, was paid out of an account with 11 your office address? 12 A. There would have been a reason, and in 13 trying to reconstruct this, the -- it may have 14 been that this -- this -- one of these accounts 15 would -- 16 MO MR. BURSTEIN: I'm going to move to 17 strike. 18 Q. I didn't ask what it may have been. 19 I'm asking if you recall why -- 20 A. Do I recall why? 21 Q. -- the tax payment was made in two 22 different checks. 23 A. As I sit here right now, the answer is 24 no. 25 Q. Are there any documents that you could</p>	<p style="text-align: right;">Page 164</p> <p>1 D. Naseman 2 handwriting on this document? 3 A. It is difficult to say. It certainly 4 is a close approximation of mine, and I've looked 5 at this before. I can't tell you whether parts of 6 this was a draft or what, but it certainly isn't a 7 document that I prepared. 8 Q. Look at the number on Line 7. 9 A. Line 7. 10 Q. The first page? 11 A. Right. 12 Q. The number 1,252,059.88. Is that 13 numbering -- did you write that numbering there? 14 A. Couldn't tell you. 15 Q. You don't recall? 16 A. No, it -- as I -- as I'm saying, I 17 don't know whether this is a close approximation 18 of mine that somebody did or whether this was a 19 draft of another tax return, but you can see that 20 the 252 seems to be different or in some context 21 from the 059. I mean, just size wise it's 22 different. 23 Q. When you say it could be a draft of 24 the different tax return, what do you mean? 25 A. Well, I mean that when I did a tax</p>

<p style="text-align: right;">Page 165</p> <p>1 D. Naseman 2 return, I would do various drafts as things got 3 added, and if I was preparing the final, if I made 4 a typo or something like that, I would start over 5 again and redo the form.</p> <p>6 Q. When were you paid the \$5 million from 7 LIN, what month of the year?</p> <p>8 A. Well, it's -- it's not that simple. 9 There was probably about 3.9 million that was -- I 10 think technically speaking I don't think it was 11 LIN. It was McCaw, and that would have been in 12 March 1990.</p> <p>13 Then additional payments, the balance 14 would have been made either throughout the year as 15 my salary was going on during this period, and 16 then in November -- on November 1 or somewhere in 17 that month, they paid out the rest of the money 18 when I retired.</p> <p>19 Q. Certainly then by the time you were -- 20 by the time you secured a copy of a 1990 1040, you 21 knew that you had earned at least \$3 million from 22 LIN in the year 1990?</p> <p>23 A. Certainly, absolutely.</p> <p>24 Q. So if this was a draft that you 25 prepared, on what basis would you have filled in</p>	<p style="text-align: right;">Page 167</p> <p>1 D. Naseman 2 Q. -- was for the income tax that was 3 paid, not for the money that you were given? 4 A. Certainly, I know that, yes. 5 Q. In fact, if you look on Page 2 of this 6 Exhibit 12, how is it that only 237,028.52 is 7 listed?</p> <p>8 A. Don't ask me. I didn't prepare it. 9 Q. So this is not your signature on the 10 bottom, the signature page of TH 454?</p> <p>11 A. No, that's a copy of a signature which 12 is identical to the tax -- 1990 tax return that is 13 Exhibit 11 on Page 2.</p> <p>14 Q. And what do you draw from that?</p> <p>15 MR. ROTTENSTREICH: Objection to the 16 form.</p> <p>17 Q. What conclusion do you draw from that?</p> <p>18 A. That somebody copied the signature 19 block on Exhibit 11, Page 2, and pasted it onto 20 the signature block on Exhibit 12, Page 2.</p> <p>21 Q. And take a look at 1989, which I think 22 is Exhibit 9 and look at the signature line on 23 the second page of that exhibit.</p> <p>24 A. Yes.</p> <p>25 Q. Do you see any significant difference</p>
<p style="text-align: right;">Page 166</p> <p>1 D. Naseman 2 the number 1,252,059.88?</p> <p>3 A. That's what I'm saying, it could have 4 been a mistake.</p> <p>5 Q. A mistake by you?</p> <p>6 A. A mistake by me or intentionally done 7 by somebody else with a close approximation. If 8 somebody was giving me information over the phone 9 and I'm trying to -- I'm trying to do your 10 conceivable issue here.</p> <p>11 The fact of the matter is I did not 12 prepare that form, but if you want to look at the 13 W-2, I think if somebody was giving me --</p> <p>14 Q. On what exhibit?</p> <p>15 A. I'm sorry.</p> <p>16 Q. Exhibit 12?</p> <p>17 A. On Exhibit 11. DMN 0421.</p> <p>18 If somebody was giving me the federal 19 income tax instead of the other number just to the 20 next of it of wages and tips, you'd get a totally 21 different result, but I am saying, I -- this is 22 baffling.</p> <p>23 Q. You know that the -- the entry for 24 federal income tax on February -- on No. 9 --</p> <p>25 A. Right.</p>	<p style="text-align: right;">Page 168</p> <p>1 D. Naseman 2 between the signature line on 45 on the 1990 tax 3 return, the Exhibit 12, with the 1,252,000 income 4 figure, and the signature line on Exhibit 9, TH 5 442, which you have acknowledged is your 6 signature?</p> <p>7 A. Yeah, they're different.</p> <p>8 Q. You think they're different?</p> <p>9 A. Yeah.</p> <p>10 Let me make sure I understand what 11 you're asking me. Are you saying they're 12 identical? Because they certainly are not.</p> <p>13 The M and the A doesn't come at the 14 same point. The N is differently framed, and the 15 line that's in the D, for instance, goes further 16 in than on one than the other, so -- and Toehl's 17 name is much darker on one, and the G is 18 differently -- I mean, they're not identical 19 signatures. People don't do identical signatures.</p> <p>20 Q. Comparing Exhibit 11 to Exhibit 12, do 21 you have an opinion as to who would have created 22 Exhibit 12?</p> <p>23 A. Do I have an opinion? Are you making 24 a distinction between an opinion and a belief?</p> <p>25 Q. Do you have a belief as to who</p>

<p style="text-align: right;">Page 169</p> <p>1 D. Naseman 2 prepared Exhibit 12? 3 A. Yes. 4 Q. Who do you believe prepared it? 5 A. I believe Marcia or somebody under her 6 direction prepared it. 7 Q. Do you have a belief as to why Marcia 8 would have done this? 9 A. I think that the trial in our divorce 10 was about to commence, and they needed something 11 to show to the judge to get a deferral of that to 12 allow her lawyer more time to work on the case. 13 MR. BURSTEIN: Let's mark this as 13. 14 (Plaintiff's Exhibit 13, 1990 IT 201, 15 marked for identification.) 16 Q. Is this a document you prepared? 17 A. Which document are you asking me 18 about? 19 Q. Exhibit 13. 20 A. No. 21 Q. Do you have a belief as to who 22 prepared this document? 23 A. The same belief as I indicated before. 24 Q. That would be Marcia or somebody 25 acting under Marcia's direction?</p>	<p style="text-align: right;">Page 171</p> <p>1 D. Naseman 2 A. Where is number? 3 Q. Under account number in the square. 4 A. Oh, okay. 5 Q. You see that the -- and we see that 6 309, that account was sent to you at your office 7 at 1370 Avenue of the Americas, right? 8 A. Correct. 9 (Plaintiff's Exhibit 14, Bank 10 Statement, marked for identification.) 11 Q. I show you 14, and this is -- as you 12 will see, if you look under the line, do you see 13 where it says "Service Summaries" on the left-hand 14 side? Let me stand over and -- 15 A. Service summaries, okay. 16 Q. Right below it says money director. 17 A. Right. 18 Q. And you see the account number 19 0318188309, the same account number that's on 426 20 on Exhibit 11? 21 A. Yes. 22 Q. If you notice that the -- this 23 statement went to your home as of December 30, 24 1988. Do you see that? 25 A. Uh-huh.</p>
<p style="text-align: right;">Page 170</p> <p>1 D. Naseman 2 A. That is correct. 3 MR. BURSTEIN: I think we are almost 4 done, so let's take a ten-minute break and 5 then -- 6 (Recess taken.) 7 Q. Has looking at exhibit -- I guess 8 which is -- is it 13? Is the 1040 with the -- 9 that's the state one, and Exhibit 12 is the 10 federal one with the 1 million number? 11 A. Correct. 12 Q. To your knowledge, has a handwriting 13 expert reviewed -- done an analysis of the 14 signatures on Exhibit 12 and 13? 15 A. To my knowledge, I don't know. I've 16 heard the issue on the signature. I've heard the 17 statements regarding the signature block. I don't 18 know if an analysis is being done on that. 19 Q. If we go to Exhibit 11, which is the 20 1990 return that was filed, we see that -- go to 21 426. We see that your account for the Republic 22 National Bank Account No. 318188309 -- do you see 23 that? 24 A. Where? What are you reading from? 25 Q. 426 on the bottom.</p>	<p style="text-align: right;">Page 172</p> <p>1 D. Naseman 2 Q. Is there a reason why sometime between 3 19 -- 12/30/88, and when you filed your -- you 4 received the document that's 426 in Exhibit 11, 5 that you changed the address of the account? 6 A. As I recall, we were changing 7 apartments at that time, and I was having things 8 sent to me at my office address. 9 Q. Is there a reason why you didn't do 10 that -- if we look at 425 on Exhibit 11 -- 11 A. 425. Okay. Where are -- oh, 425. 12 Q. Do you see that is a statement for 13 another account, a joint account with you and 14 Toehl Harding. Do you see that? 15 A. Right. 16 Q. That's sent to 425 East 51st? 17 A. Right. 18 Q. So my question is: If you were moving 19 the other account to your office address because 20 you were in the process of moving apartments, why 21 didn't you change the address for the joint 22 account of Republic National Bank? 23 A. Only because this was a pre-existing 24 account. When this -- let's see. This was in -- 25 if you go to -- I believe you're talking about the</p>

<p style="text-align: right;">Page 173</p> <p>1 D. Naseman 2 1990 time frame here, and you went to the next 3 page. 4 This is reflecting the interest on -- 5 this is reflecting the deposit from the money from 6 the retirement of the options. 7 Q. That's not my question. 8 A. No, I'm explaining to you exactly why 9 the change was made, because this money was 10 flowing into this other account. Okay? There was 11 nothing flowing into the joint account at that 12 time. These funds that were coming from my 13 options were flowing into the 8309 account. 14 Q. But if the reason why you had the 8309 15 account transferred was because you were removing 16 apartments -- that's what you said, sir. 17 A. No. I'm sorry. What I said was that 18 that was being done at that time, but it was 19 coincidental that -- the reason why it was done is 20 because there was a deposit being made into the 21 account.</p> <p>22 MR. BURSTEIN: Could read back the 23 answer to the question we had before? 24 (Answer read.) 25 Q. If as you said -- I asked you why you</p>	<p style="text-align: right;">Page 175</p> <p>1 D. Naseman 2 Q. When did you move apartments? 3 A. I don't recall offhand. 4 Q. I mean, you recall that this happened, 5 that you made this change because you were moving 6 apartments, so how is it that you know that that 7 was when the change was made if you don't recall 8 when you were moving apartments? 9 A. I think it was within this time frame 10 here. 11 Q. Didn't you move within the same 12 building? 13 A. Yeah, we did. 14 Q. You were in the same building, 15 correct? 16 A. Correct, yeah. 17 Q. And you continued to own both 18 apartments, correct? 19 A. Yes. 20 Q. So notwithstanding that you thought it 21 was important to have one of the accounts sent to 22 your office because you were moving apartments -- 23 A. That's not my testimony whatsoever. 24 You're mischaracterizing it. What I said was 25 there was an occurrence and a question that was</p>
<p style="text-align: right;">Page 174</p> <p>1 D. Naseman 2 had that account statement, the mailing address 3 changed from your home to your office. You said 4 because you were moving apartments, and you 5 started having things sent to your office. 6 A. Yeah, and it all coincided with the 7 fact that a deposit was being made in that account 8 at that time. 9 Q. You didn't say, sir, that it was just 10 that account. You said you were moving things to 11 your office. Why would you have moved a -- if you 12 were moving the one statement because you were 13 presumably concerned about the fact that you were 14 moving apartments, why did you move the joint 15 account statement? 16 A. I stand corrected. My answer was 17 incomplete at the time. 18 Mentally I put those two things 19 together because the time frames we were talking 20 about is when I was getting the income. It was 21 going into the special account, and that was the 22 justification for changing the account. It was -- 23 Rosemary probably asked me at the time, you know, 24 is there any changes in this account, and I 25 probably said, you know, send it to me here.</p>	<p style="text-align: right;">Page 176</p> <p>1 D. Naseman 2 asked at the time. It was coincidental, and I 3 explained it and said just send it to me at the 4 office. I had other things sent to me at the 5 office. 6 Q. What other things did you have sent to 7 you? 8 A. I can't recall offhand. 9 Q. But you recall this? 10 A. I do. 11 MR. BURSTEIN: I don't have anything 12 further. Nothing further. 13 MR. ROTENSTREICH: No questions. 14 (Time noted: 4:13 p.m.) 15 16 17 18 DAVID MILFORD NASEMAN 19 20 Subscribed and sworn to before me 21 this ____ day of _____, 2008. 22 23 24 25</p>

Page 177			Page 179		
1	C E R T I F I C A T E		1	EXHIBITS	
2	STATE OF NEW YORK)		2	PLAINTIFF'S EXHIBIT	PAGE
3	: ss.		3		
4	COUNTY OF NEW YORK)		4	12, 1990 1040	163
5			5	13, 1990 IT 201	169
6			6	14, Bank Statement	171
7			7		
8	I, MAUREEN MC CORMICK, a Notary Public		8		
9	within and for the State of New York, do hereby		9		
10	certify:		10		
11	That DAVID MILFORD NASEMAN, the		11		
12	witness whose deposition is hereinbefore set		12		
13	forth, was duly sworn by me and that such		13		
14	deposition is a true record of the testimony given		14		
15	by the witness.		15		
16	I further certify that I am not		16		
17	related to any of the parties to this action by		17		
18	blood or marriage, and that I am in no way		18		
19	interested in the outcome of this matter.		19		
20	IN WITNESS WHEREOF, I have hereunto		20		
21	set my hand this 13th day of May, 2008.		21		
22			22		
23			23		
24	MAUREEN MC CORMICK.		24		
25			25		

Page 178		
1	May 12, 2008	
2		
3		
4	----- I N D E X -----	
5	WITNESS EXAMINATION BY	PAGE
6	Mr. Naseman Mr. Burstein	4
7		
8	----- INFORMATION REQUESTS -----	
9	DIRECTIONS: 56	
10	REQUESTS: 28	
11	MOTIONS: 162	
12		
13	EXHIBITS	
14	PLAINTIFF'S EXHIBIT	PAGE
15	1, Plaintiff's First Request	11
16	2, Separation Agreement	32
17	3, Letter 3/29/93	87
18	4, Preliminary Draft, 3/93	88
19	5, Analysis	101
20	6, History	138
21	7, 1987 Tax Return	158
22	8, 1988 Tax Return	158
23	9, 1989 1040	159
24	10, 1990 1040	160
25	11, 1990 1040	160

45 (Pages 177 to 179)